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United States District Court

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA v. ALGER HISS, Defendant.	AFFIDAVIT C 128-402

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

MYLES J. LANE, being duly sworn, deposes and says:

I am the United States Attorney for the Southern District of New York, and in that capacity I am in charge of the above entitled case. This affidavit is submitted in opposition to the motion of the defendant for a third trial on the theory of "newly discovered evidence."

While I recognize that this court is fully familiar with the facts of this prosecution, I will, for the purpose of completeness, review briefly the pertinent details.

The defendant was indicted by a Grand Jury for the Southern District of New York on December 15, 1948. The indictment charged that the defendant twice perjured himself while testifying before that Grand Jury. Count One charged that the defendant perjured himself when he testified that he had not turned over to Whittaker Chambers any documents or copies of documents of the State Department. The second count charged that the defendant committed perjury when he testified that he had not seen Chambers after January 1, 1937.

A series of pre-trial motions were made by the defendant and various orders were submitted and signed providing the defendant with opportunities of inquiry into the details of the prosecution's case. The indictment was brought to trial for the first time on May 31, 1949, before the Honorable Samuel H. Kaufman and resulted in a disagreement of the jury on July 8, 1949.

The defendant next moved for a change of venue on the ground of public prejudice in this district, and after the submission of voluminous supporting papers, this motion was denied by the Honorable Alfred C. Coxe. The indictment was brought to trial again on November 17, 1949, before the Honorable Henry W. Goddard. On January 21, 1950, a jury found the defendant guilty on both counts, and on January 25, 1950, the defendant was sentenced to five years on each count, the sentences to run concurrently.

On October 13, 1950, the Court of Appeals for the Second Circuit heard extended argument by the defendant's counsel in support of his appeal from the conviction. That court affirmed the conviction, *United States* v. *Hiss,* 185 F. 2d 822 (2nd Cir., 1950), and denied a petition for rehearing. Finally, on January 27, 1951, the Supreme Court of the United States denied the defendant's application for certiorari. *United States* v. *Hiss,* 340 U. S. 948 (1951).

On January 24, 1952, the defendant served upon me a paper captioned, "A notice of a hearing on a motion", together with supporting papers, petitioning the court for a third trial on the theory that he

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possessed newly discovered evidence which, if it had been presented to the trial jury, would have resulted in an acquittal. Those papers announced that "a hearing" on the motion would be had on February 4, 1952. The arguments were formulated in an affidavit by Chester T. Lane. For purposes of convenience to all concerned, I will deal with the contentions of the defendant under number classifications identical with those employed in that affidavit.

Summary of Argument in Opposition

This motion is frivolous. Though supposedly based on newly discovered *evidence,* in reality it is predicated on sheer speculation. As such its real purpose must be to perpetuate in some quarters the myth of the defendant's innocence. Thus the affidavits of Chester T. Lane, submitted in support of the present motion, renew and reiterate the pre-trial propaganda of the defense which attempted to depict Chambers as a social leper, totally unworthy of belief, and the defendant as the epitome of loyalty and truth. The trial jury, by its verdict, rejected these characterizations. It determined that Chambers was speaking the truth and that the defendant was a liar, perjurer and a communist spy. No evidence to the contrary is produced upon this motion.

Further, the motion for a third trial was not made by the defendant within the time specified by Rule 33 of the Federal Rules of Criminal Procedure. For that reason it would appear that this motion is also untimely. The final judgment of conviction was entered on January 25, 1950, while the original return day for the notice of motion, on which day the defendant would make his application to the court, was February 4, 1952, more than the two years fixed by the rule. This subject is considered in more detail in our memorandum of law. Suffice it to say here the Government submits that there is a serious question as to whether this court has jurisdiction to entertain this motion.

Before demonstrating the lack of merit of the contentions raised here, it would appear fitting to set forth facts establishing that the alleged proofs proposed are in no legal sense "newly discovered." Where appropriate, peculiar facts will be set forth demonstrating that the particular item could have been produced at the second trial if due diligence had been exercised by the defense, but for all contentions the following should be considered. There was a time interval of more than two years from the date of the indictment on December 15, 1948 to the completion of the second trial on January 21, 1950. In addition to that period of time for inquiry and investigation, it must be conceded that the defendant had done some investigating as early as the initiation of the depositions in Baltimore in November, 1948, and knew most of the testimony given by Chambers before the House Committee in August of 1948. It is a matter of record that the defendant had considerable assistance in the investigations he conducted before the conclusion of the second trial. He has had the services of at least sixteen qualified attorneys and the assistance of at least three experienced private investigators. He had the assistance of a psychiatrist and a psychologist. He had the services of an expert in the analysis of paper content as well as handwriting and typewriting experts. In the light of these factors, it is apparent that the defendant would have discovered all evidence of assistance to

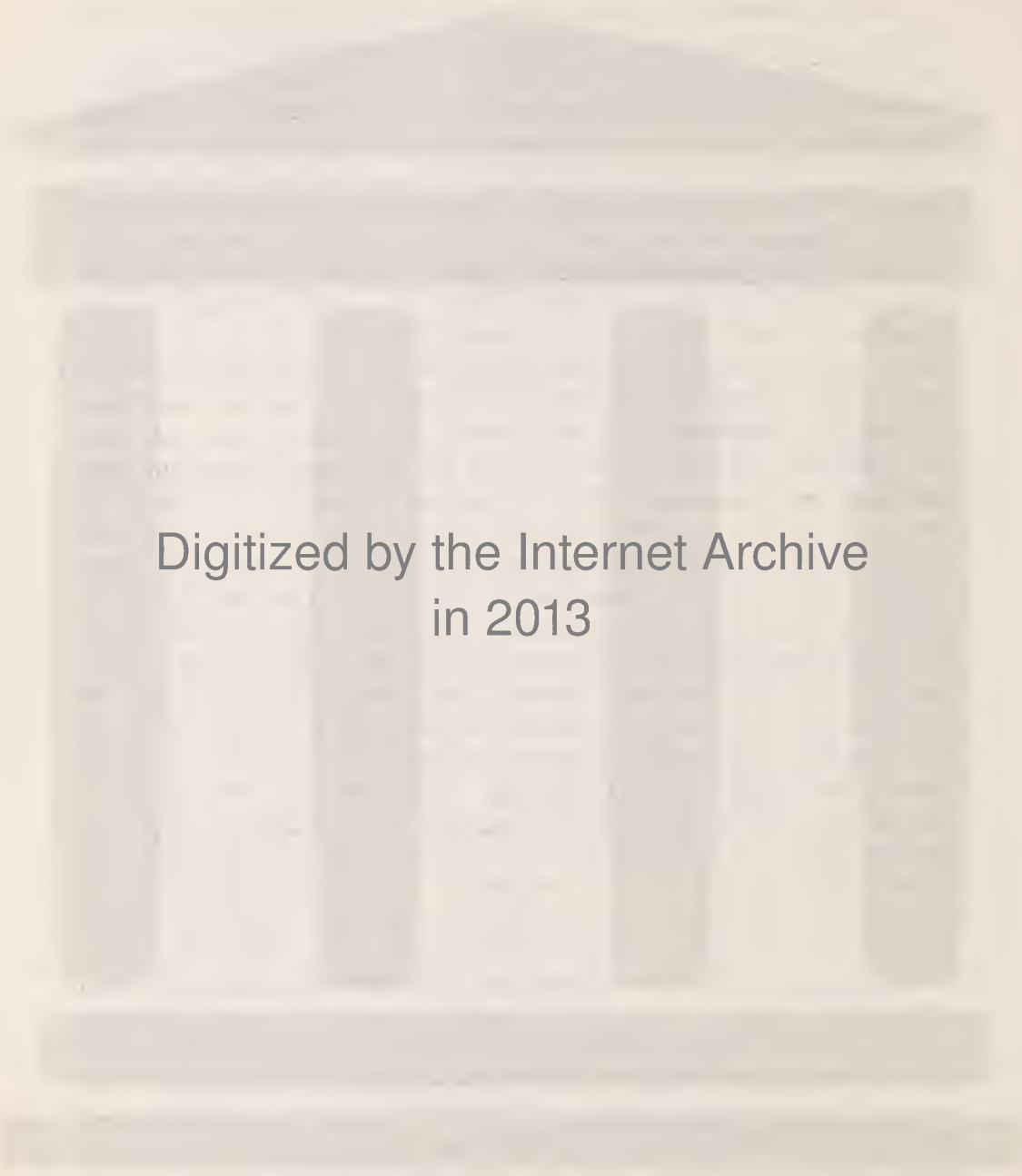
him before the conclusion of the second trial if due diligence had been exercised by him. This is particularly so when it is recognized that by the prosecution's testimony at the first trial the defendant was thoroughly informed of the Government's evidence and, with a few exceptions, knew the entire content of the prosecution's case.

I. The theory that the Baltimore documents were not typed on Hiss machine.

The defendant now attempts to prove that the typed Baltimore papers were not produced by the Woodstock typewriter which was in the Hiss home in 1937 and early 1938. This is a complete change of tactics by the defense and abandons the defense theory of both trials. The defense previously alleged and sought to prove that Hiss was innocent because his typewriter, concededly used to type the Baltimore papers, left his possession in 1937. The defendant, his wife and several of his witnesses told in great detail how the Woodstock was taken to the Catlett home in December, 1937. Further, photographs and testimony were produced by the defense to suggest means whereby Chambers secretly used the Woodstock while it was at the Catlett home. In so far as the defendant argues that Ex. UUU did not produce the Baltimore papers, his argument is irrelevant since the conclusion of both the defendant's and the Government's experts was only that the Baltimore documents were typed on the same typewriter that produced the known standards of typing and no identity with Ex. UUU was attempted or needed. As a matter of record, the Government rested its case in both trials without attempting to identify the typewriter. The defendant dramatically introduced it as his exhibit to physically prove the truth of his now abandoned defense that it was not in his possession after January, 1938. In so far as the defense theorizes that the Baltimore papers were produced by Chambers on a typewriter constructed by him to produce typing identical with the Hiss machine, no credible evidence to support the theory is forthcoming, nor could it be forthcoming. Moreover, this new theory of the defense affects only one of the several corroborating proofs supporting Count 1 and Count 2, and hence does not even approach the other bases of conviction, all sufficient in themselves to establish the required corroboration. Mrs. Chambers gave direct testimonial corroboration to establish Count II of the indictment. The four handwritten notes given by the defendant to Chambers were more than adequate to support the verdict of guilty upon both counts. The rug which Chambers gave to Hiss some time after December, 1936, and all the evidence surrounding it, is left undisputed in this motion. The loan of four hundred dollars to Chambers by Hiss in November of 1937 and the collateral proof of that loan were adequate to warrant the verdict of guilty on Count II. Finally, culminating these insurmountable hurdles is the fact that the defendant received concurrent sentences on each count.

II. The theory that the trial Exhibit UUU was not the Hiss machine.

Here the defense suggests, as evidence requiring a third trial, information not relevant to the prosecution's case. The trial exhibit was not a basis for the conclusion of the Government's document examiner.



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It was not produced by the defense until after the examiner had testified at the first trial and was not introduced in evidence until after the Government rested. We have the aggravating factor here that the defendant seeks a new trial on the ground that an exhibit he produced was not what he, his wife and five of his witnesses said it was. Again, even assuming all possible theories of the defendant in this regard are sound, it does not attack the other corroborating proofs which are independently sufficient.

III. The argument related to Edith Murray.

Mrs. Edith Murray was the former maid of the Chambers who also proved to the jury that the defendant and his wife lied as to their relationship with the Chambers. The defendant produces affidavits of two individuals, one to the effect that the affiant did not see Edith Murray work for the Chambers family at their 903 St. Paul Street, Baltimore, apartment in 1935 and 1936. The other swears he never saw Mrs. Murray at the 1617 Eutaw Place residence of the Chambers in 1936. Even assuming the affidavits submitted had any *prima facie* value, it must be conceded that at best they would constitute an attempt to attack the credibility of a witness and as such would be insufficient, under the precedents, to warrant a new trial. Moreover, the opportunities of observation of the two affiants of the defendant were obviously inadequate; so that on their face the affidavits do not even constitute impeachment. Further, there is every indication that the affidavit of Louis J. Leisman contains perjurious statements. The general character and background of this affiant will be developed at length hereafter.

IV. The time of Chambers' break with the Communist Party.

Considerable effort is expended by the defendant in an attempt to establish that Chambers left the Communist Party before April 1, 1938. One of the many, many copies of State Department documents produced by Chambers bears the date, April 1, 1938 and the argument is that Chambers could not have received this document from the defendant if Chambers had broken with the party before April of 1938. The defendant charges that Chambers left his Mount Royal Terrace home in Baltimore to go into hiding before April 1, this move marking the rupture with the communist organization. The statements culled from the many pages of testimony by Chambers, recalling his break as occurring in 1937 or early 1938, are obviously approximations by him which set the date of break some months ahead of the actual rupture. Certainly even the defendant would not now seriously argue that Chambers left the Communist Party in the year 1937. Correspondence referring to the translation by Chambers for the Oxford University Press, which correspondence was accumulated by the defendant through the services of Eleanor Kirstein, a former Tass agent, is relied upon by the defendant because it indicates the translation was obtained before April, 1938. Chambers has, of course, testified that he obtained this translation at the time he broke with from the Party. It is apparent that in these time approximations made a decade later, Chambers erred by a few weeks in fixing the time of his obtaining the translation. Additional affidavits will be discussed herein to establish beyond question that Chambers and his family did not leave their Baltimore

home for Florida and refuge until at least two weeks after April 1, 1938, and that the break occurred approximately April 15, 1938, as Chambers stated in both trials. Exhibits submitted by the defense support this finding. (Exs. IV-B-10; IV-B-11(a); IV-B-11(b); IV-B-12; IV-B-14; IV-B-13; IV-B-15.) In any event, this contention of the defendant is again solely of an impeaching nature and therefore, under the precedents, would not warrant a new trial.

V. Lee Pressman.

A statement before a Congressional Committee by Lee Pressman that Alger Hiss was not in a communist cell with him is offered as another item of newly discovered evidence. But the name of Lee Pressman was never mentioned by Whittaker Chambers at any time during his lengthy appearance on the witness stand at the second trial. In all probability any testimony by Chambers in regard to Pressman and his possible membership in a Communist cell with the defendant would have been rejected by the trial court as not relevant. The statement of Pressman before the House Un-American Activities Committee on August 28, 1950, does not conflict with any testimony of Chambers at the trial, hence does not impeach his testimony in any respect. It would lead only to a completely superfluous inquiry into an irrelevant issue. *See* the testimony of Nathaniel Weyl in February, 1952, given before the Internal Security Committee of the United States Senate, in which he stated under oath that Alger Hiss and Lee Pressman were members of a Communist cell, together with other men previously named by Chambers.

I. The theory that the Baltimore Documents were not typed on Hiss machine.

1. The first theory calling for a third trial is the contention that the Baltimore documents produced by Chambers were not typed on the Woodstock possessed by the defendant in 1938 but were typed on a second machine constructed by someone, presumably Chambers, in such a fashion that it produced typing identical with typing produced by the Hiss machine. Throughout these affidavits the government will refer to the Woodstock owned by Hiss in 1938 as the Hiss machine and will refer to the machine allegedly constructed by Chambers as the fabricated machine, while the machine introduced in evidence at both trials by the defendant will be designated Ex. UUU, or by its Woodstock Number, N 230,099.

2. In summation, defense counsel at the second trial said, "The Government expert said that in his opinion these Baltimore exhibits were typed on the Woodstock typewriter. Undoubtedly that is a good opinion. As I told you in the opening we consulted experts, and in their opinion they thought so too" (R. 3162). But now, in pursuing this new and contrary avenue of defense, it is alleged, in apparent seriousness, that Chambers, in some unexplained fashion, constructed a miraculous duplicate typewriter and then, without leaving any traces whatsoever, substituted it for the Hiss machine while the latter was in the possession of either the Catletts or Ira Lockey. While doing this Chambers is assumed to have possessed the fore-knowledge that the defendant would be indicted several years later and be convicted be-

cause his typewriter produced unauthorized copies of secret State Department documents. Finally, Chambers possessed the incredible ingenuity to lure the defendant into producing the miraculous typewriter and thereby bring about his own destruction.

3. Chester T. Lane, in evolving this theory, presupposes from the very beginning that the defendant was innocent of the offenses charged (p. 9, par. 2 of original affidavit). From this unsubstantiated starting point he then proceeds to the conclusion that the Baltimore documents could not have come from the machine that produced the known standards, notwithstanding the fact that all the experts contacted by either the prosecution or defense had come to the opposite conclusion. It should be noted in evaluating all the supporting papers that in this proceeding it is Chester T. Lane who is the combined typewriter expert and document examiner. He would have this court set aside the result of an extended trial, which result has been affirmed, after a considered appeal and a denial of certiorari, on the ground of his expert opinions, although he must himself concede that he has no experience or training in the field. Where opinions of other experts are submitted, in many instances no details as to the basis of their conclusions are given, as will be pointed out hereafter. In addition, one expert states that he does not undertake to present the details as to particular analyses from which he does undertake to present numerous conclusions.

4. The defendant's expert, Chester T. Lane, contends that the government's expert, Ramos C. Feehan, erred when he concluded that the Baltimore papers and the known standards were typed upon the same machine. Criticism of Feehan's methods is made by defense experts because in his testimony Feehan referred only to ten points of identity. The fact is that Feehan was asked to indicate "some" reasons for his conclusion and was not cross-examined as to further indicia of identity (R. 1075). An examination of the attached affidavit of Ramos C. Feehan (Ex. A) will demonstrate to the court that this belated attack is without substance, for the conclusion of Feehan proceeded from a most thorough and complete analysis and comparison of the Baltimore documents with the known standards.

5. In his original affidavit (p. 9, par. 2) Chester T. Lane admitted that this new approach of the defense abandons the theory set forth at both trials, which was that the Baltimore documents were typed on the Hiss machine but were typed by Chambers, who in some unknown fashion, gained access to the machine. At the second trial, defense counsel theorized as follows: "Suppose someone had called up, or come over, when he knew the Hisses weren't there, and asked Clidi, saying that they were a typewriter repair man and had come to repair the Woodstock typewriter. What would she have said? Why, they have given it to my boys. He wouldn't have much difficulty locating Clidi's place, and with that open house, with the cellar there, I mean the closet; with all the people coming and going, all the people living there, and their friends, and the dances and all. How easy. Am I talking through my hat? (R. 3164)". As a corollary of this now obsolete theory, the defense attempted to prove that the Hiss machine had been given to the Catlett family on or about December 29, 1937, when the Hiss family moved to Volta Place in Georgetown. This theory was

disproved by the prosecution, but certainly was a more plausible explanation than is now proposed. New counsel apparently believes that the former defense counsel was talking through his hat. Rejection by the jury of theory number one would indicate, *a fortiori*, rejection by any jury of the now proposed contention.

6. In his affidavit Chester T. Lane theorizes that Mr. Chambers constructed a typewriter which would produce typing identical with specimens obtained from the Hiss machine. It is nowhere suggested, however, how Chambers obtained specimens of the Hiss machine, and I advise the Court that it was only with great difficulty that the F. B. I. obtained such specimens. Mr. Lane concedes that many experts advised him that such a typewriter could not have been constructed (p. 10, par. 3 of original affidavit). In an effort to construct such a machine for the defense, Mr. Lane has had the services for at least one year of expert Martin K. Tytell, and even at this time Tytell will say only that he "believes" he has constructed a machine to meet the defense specifications. Tytell produced this typewriter with the aid of his associates and by virtue of his long experience as a specialist in this esoteric field. Mr. Tytell states:

> "I am a typewriter expert, with many years of specialized experience in the creation of unique typewriters for foreign language and other purposes" (Ex. 1A).

7. In addition to this trained background and the help of his associates, it may reasonably be assumed that Mr. Tytell had the help of specialized equipment and tools. Mr. Chambers, on the other hand, the supposed creator of a similar machine, has had no experience or training whatsoever in the field and would have no equipment for such a venture. If the defendant now supposes that Chambers constructed the machine with the assistance of some experts in the field, it leads to the refutation that such a procedure would have left traces to prove that that occurred. Although the defendant has completed extensive investigation in this field, he not only has not uncovered any such traces, but does not even suggest that they exist.

8. The entire proposition becomes even more fantastic when it is suggested that Chambers did not mention the Baltimore documents in August of 1948 before the House Committee, because they did not then exist, but were produced between that date and November 17, 1948. Under this alternate theory, Chambers would have had to obtain in the autumn of 1948 the necessary typing specimens, construct the typewriter, obtain the original State Department documents, type them and substitute his fabricated machine for the Hiss machine, all in the period of approximately three months.

Analyses of the Documents.

9. The defendant submits two affidavits of Evelyn S. Ehrlich who describes herself at some length as a detector of spurious *prints*. In his second supplemental affidavit Mr. Lane refers to this lady (p. 11) as " * * * an expert in the use of photomicrography to detect printing forgeries." For purposes of argument we will assume that an opinion of Mrs. Ehrlich in the field of *typed* documents is of some value.

10. It is first to be noted that this helper of the defendant concedes that she can distinguish between typing specimens from the trial exhibit UUU and the fabricated machine. Thus, despite all this time, and despite the work of experts skilled in the manufacture of special typewriters, and despite the aid of two document examiners, the defense has still not produced a machine to duplicate the work of Ex. UUU. How then can it seriously be argued that Chambers produced such a machine without expert training of any kind and without assistance, and possibly accomplished this miracle of production in three months' time!

11. The assigned task of Mrs. Ehrlich was to compare recent specimens from Ex. UUU with the Baltimore Documents and the known standards. Mrs. Ehrlich, an expert in *printed* documents, expresses great difficulty in working with most of these typed papers because of poor quality paper and because of overwet typewriter ribbons. Although the other defense expert, Elizabeth McCarthy, experienced no such problem and the standards were deemed adequate by the government's experts, Ehrlich is reluctant to express any opinion. In all probability she has this difficulty because she concededly has not worked with typed documents but with printed matter.

12. Ehrlich accepts only three of the known standards as useable; Exs. 37, 46B and TT. Two of these are older specimens dating from 1931 and 1933, while the third (Ex. TT) was not used by the government expert. She compares these standards with the Baltimore Documents of 1938 and with specimens made from N 230,099 in 1951. After comparing the Baltimore documents with the known standards, Ehrlich states that she has no definite opinion as to whether the two sets of papers were typed on the same machine. Nor is she certain that the Baltimore documents were typed on N 230,099, thus further confounding the defendant's theory, for otherwise Chambers must be assumed to have constructed not one but two new machines. In the last analysis, all Ehrlich can say is that the "observable peculiarities" in the type of the Baltimore documents "more nearly resemble" the specimens from N 230,099 than the Hiss standards. But even Ehrlich concedes that these peculiarities may be attributable to the particular ribbons and absorbent quality of poor grade paper used for the Baltimore documents (Ex. 2S-II, p. 5). Since Ehrlich does not conclude that the Baltimore documents and the known standards came from different machines, her affidavit is without value and can not conceivably warrant the granting of a third trial.

13. The second document examiner used here by the defense is Elizabeth McCarthy. McCarthy agrees with Ehrlich that typing from Ex. UUU can be distinguished from typing done on the newly fabricated machine. Thereafter, McCarthy announces conclusions differing from those of Ehrlich.

14. McCarthy reports that after examining the known standards, the Baltimore documents and recent products of Ex. UUU she would be of the opinion that all sets of documents came from the same machine. She then admits that her further opinion is based upon a report of Daniel Norman, a chemist, which will be considered hereafter. This report attempts to prove that Ex. UUU inherently indi-

cates it was constructed by some one other than the Woodstock Company. Even with reliance placed on this report, the farthest McCarthy will go is to state that (p. 4 of Ex. 2S-I) " * * * while I cannot say definitely that all three sets of documents were not typed on the same machine, I believe it just as possible, in the light of the observable facts, that the Baltimore Documents were typed on a machine which was not the original Hiss Machine used for the standards." This sort of conjecture merits no attention and certainly is of no support to this application.

15. The defendant has also utilized the services of a well-recognized document examiner, Mr. Donald Doud, but significantly has not submitted any formal affidavit by Mr. Doud on this issue. Mr. Doud has examined the Baltimore documents and the known standards together with some early products of the Hiss machine and states that early developments of type peculiarities indicate that all three sets of documents were produced by the Hiss typewriter (Ex. II-F, p. 4).

16. In summary, it will be noted that the defense affidavits contain disputable findings, unfounded and false conclusions; and despite these claims and the various side issues raised, the defense has still not produced one person, expert or no, who challenges the principal contention of the government and will say that the Baltimore papers and the known standards were not typed on the same machine. Although the defense experts can detect forgeries, and although they theorize that the Baltimore documents might be forgeries, they do not conclude, and present no evidence, that they are forgeries.

Authorship of Baltimore Papers and Corrections Thereon.

17. The defense has also introduced a series of collateral suggestions and theories which will be considered here. In her affidavit attached to the Second Supplemental Affidavit of Chester T. Lane, Elizabeth McCarthy expresses the opinion that there were two typists who produced the Baltimore Papers and that neither was Priscilla Hiss. To begin with, this entire subject is totally irrelevant. The government's case in no way and to no degree hinges upon who the typist was. Chambers, when asked, specifically stated that he had no recollection of seeing Mrs. Hiss or anyone else type any of the Baltimore papers (R. 580). Hence, the affidavit of McCarthy in this connection is without significance. In addition this conclusion is unworthy of belief for no expert has or can so identify a typist from typing which is merely mechanical copy-work, as was the production of these papers. Only very general indications of identity or non-identity of typing for two groups of specimens can be detected. In this regard, indications of identity of the typist of the known standards and the Baltimore papers are evident (Ex. B-1, p. 2).

18. McCarthy concludes that the penciled proofreading corrections on the Baltimore Papers were all made at one time because of the quality of the penciled markings, and that none were made by the Hisses. These opinions are of no relevancy and require no refutation. Moreover, to say that all corrections were made simultaneously from the evidence noted is patently as unsound as is the conclusion itself irrelevant. The same may be said of the conclusion as to author-

ship in light of the inadequate specimens of handwriting available in the corrections (Ex. B-1, p. 3). McCarthy concludes that the papers were deliberately made to appear the work of an amateur typist because some superimposed correcting letters are made lighter than the underlying incorrect letters. This conclusion is not warranted by the available evidence, for only 27 such instances are alleged, and these are not set out, while the attached affidavit sets out numerous examples to the contrary (Ex. B-3). McCarthy's opinion that four typing ribbons were used to produce the Baltimore Papers likewise is of no significance. Similarly, that the four ribbons were allegedly used in an order contrary to the dates of the Baltimore papers is not important since there was no claim or proof offered that the Baltimore Papers were typed in the same precise order as they were received or initiated at the State Department. There has been no suggestion that the defendant took them home and had them copied in precise chronological order. Moreover, no details are set forth as to the methods by which McCarthy made her type-ribbon count. Did she independently arrive at her conclusions, which are the same as Mr. Norman's? There is a serious question that their conclusion is sound (Ex. B-1, p. 7). Certainly it is of no support to this motion.

These miscellaneous contentions, lumped under Point I by the defense, are largely irrelevant and totally unpersuasive. They can in no sense call for the setting aside of a considered judgment which has been upheld after full appeal.

II. The theory that the Trial Exhibit UUU was not the the Hiss Machine.

1. Foremost in consideration of this contention is the fact that the argument is totally irrelevant to any consideration of the opinion of Feehan, or of the defendant's experts consulted before the trial, that the Baltimore documents and the known standards were produced by the one typewriter. I respectfully point out to the court that the trial Exhibit UUU was not produced by the defense until after the testimony of Feehan at the first trial and was not introduced into evidence until after the government rested. The opinion of Feehan was not based on any specimens taken from Exhibit UUU, but was based upon known standards obtained from the typewriter in the Hiss home in early 1938, as compared with the typed Baltimore documents. The opinion of Feehan at the second trial had the same foundation. Hence, even assuming for purposes of argument that the trial exhibit was a fabricated machine and not the Hiss machine, the soundness and completeness of the Government's evidence is not affected one iota. The defense seeks a third trial on a theory that the exhibit was not the Hiss machine after, as they must concede, they produced the machine and testified to its authenticity by tracing its history through the hands of several defense witnesses. Moreover, this evidence would not be likely to produce an acquittal at a third trial. Indeed there is a serious question whether the proof now offered under this contention would be admissible as relevant to the issues in the case.

2. In this instance, again we have the defense abandoning a defense theory which it attempted to develop at both the first and second trials. We respectfully call attention to the authorities which

condemn this practice as one not to be rewarded by the granting of new trials.

3. In evolving a theory that Chambers must have constructed a duplicate of the Hiss machine, various reasons why such a construction would have been necessary for Chambers are proposed. All these suggested reasons presuppose always, without apparent or actual foundation, that Chambers had some motive for implicating Hiss. No motive is articulated, however, and the contention that Chambers was a psychopathic personality, so desperately pursued at the second trial, appears also to have been abandoned. No motive is suggested for explaining why Chambers would have gone to such incredible lengths to implicate an allegedly innocent man.

4. As part of this argument, Chester T. Lane suggests that the trial exhibit is not the Hiss machine, because it is in workable condition, while the Hiss machine was not. In fact the evidence shows that the trial Exhibit UUU bore the precise physical defects attributed to the Hiss machine by several witnesses. After Mrs. Hiss testified on direct examination that the machine was not very serviceable (R. 2356) (to explain why she disposed of it to the Catletts), she stated on cross-examination (R. 2364) that the keys stuck and the ribbon did not work properly. Ex. UUU bore these defects. Mrs. Hiss did not testify that no typing whatsoever could be done on the machine. Raymond Catlett, a son of Clydie Catlett, testified that when his family received the machine from Priscilla Hiss (R. 1598) the carriage roller was broken and the carriage would not shift. He then identified the trial exhibit as the machine he possessed and pointed out the precise defects on the trial exhibit to which he referred. Thus it is apparent that the testimony of those most familiar with the Hiss machine identified the trial exhibit as the machine which emanated from the Hiss home in 1938, and pointed to those defects which demonstrated that identity.

Date of Manufacture of Ex. UUU.

5. The defendant attempts to establish that the trial exhibit, the base structure of which bears the serial number N 230,099, could not have been a regular Woodstock product but must have been constructed by another person, i.e., Whittaker Chambers. First, it is contended that the base N 230,099 was not made by Woodstock until late July or August 1929, at a time when Woodstock no longer made the type-face found on Ex. UUU. Therefore, the defendant concludes that Chambers took the base N 230,099 and added some type he accumulated from somewhere to produce a machine that produced type identical with the Hiss machine. In addition, an affidavit of Donald Norman, a chemist, is submitted, alleging that typewriter N 230,099 was not a regular Woodstock product. To bolster this theory also are the above-analyzed opinions of McCarthy and Ehrlich insofar as they suggest that a typewriter can be constructed to produce typing identical with another machine.

6. The defense further produces evidence to indicate that the Hiss machine came to the office of Mr. Fansler, Mrs. Hiss' father, sometime between June 29, 1929 and July 8, 1929. Much speculation upon

Woodstock's production records follows to support the theory that N 230,099 was not made until after July 8, 1929 and therefore could not be the real Hiss Woodstock since it was not in existence when Fansler had the Hiss machine. As to precisely when the machine N 230,099 was produced by Woodstock and when the type-face thereon was used by the Company, the defendant's own papers establish that no company records can assist us. Mr. Doud, in a defendant's exhibit, advises the Court that Woodstock kept no accurate records of the changes in the type-face used (Ex. II-F).

7. A verified letter of J. T. Carlson, who has supervision over the Woodstock Records, states some conclusions as to production in 1929, but those conclusions were later identified as merely the speculation of some unnamed clerk. In an unsigned affidavit by Joseph Schmitt (Ex. II-B), a Woodstock officer, the defense submits a summary of the production records of the Woodstock Company in 1929. This includes information on the company's use of serial numbers. Accepting those figures as accurate they reveal how totally incomplete and unreliable they are as the bases of further conclusions. Over thirteen thousand serial numbers were skipped by the company in that one year, with no apparent pattern or reason for these omissions. Monthly production figures are given but nowhere is it indicated when a serial number was placed on the machines. Nowhere does the production item reflect the date a machine was begun, or completed, or sold, or sent out, or what. Finally, even accepting these statistics as of some reliability the defendant concedes the possibility that N 230,099 was produced in June, 1929 in time to be on Fansler's desk on July 8th, 1929 (II-D, Par. 6). This entire theory is a patchwork of assumptions, resting one upon another. No evidence of any probative value is presented.

Analyses of Paper Used for Baltimore Documents and Envelope Which Held Them.

8. The defendant submits two affidavits of Daniel P. Norman who is described by Chester T. Lane as, " * * * an expert in physical and chemical analysis of paper, metals and others materials" (p. 11 of Second Supplemental Affidavit). Norman describes his qualifications in similar terms. Norman submits a series of conclusions which stem from chemical analyses, as well as some opinions in the field of typewriter construction and wear, in which subject he is not even alleged to be an expert. The former deal with a paper analysis of the Baltimore Documents and envelope which held them from 1938 to 1948. This line of opinion really goes to Chambers' testimony that the envelope held all the Baltimore Documents, and is distinct from any theory raised in the original motion papers. However, it is readily refutable and will be recited here for convenience. The sum total of these conclusions adds nothing to this issue, as will be demonstrated.

9. Norman cut a portion of paper from each of the Baltimore documents as well as from the envelope which contained those documents for ten years. This opportunity was given the defense at their request although they previously had had a paper analysis made during the second trial.

10. Norman notes that physically the Baltimore papers, with the exception of Nos. 9 and 10, fall into two groups. Group "A" sheets are 8½" by 11" and are more yellow than Group "B" sheets, which are 8" by 10½". Norman notes that sheets of both groups are of the same general class of paper. From these facts Norman concludes that both groups could not have been stored together for ten years. But Norman assumes that all the sheets were of the same age in 1938 when typed, which premise is supported by no proof whatsoever. Further, the speed of yellowing depends upon the rosin, iron, lignin and bleaching in the sheets of each group. Thus, two different sheets of paper of the same general class under identical conditions will vary greatly as to the degree of yellowing where one is rosin-sized (Ex. B-1, p. 6). Hence the conclusion of Norman as to the impossibility of both groups of sheets being in the same envelope for ten years begins with an unsupported premise and proceeds upon an erroneous generality. The conclusion can therefore bear no weight. Moreover, Norman ignores persuasive inherent proof that the Baltimore Documents were folded into quarters while ageing, as would be the case if they were in Chambers' envelope (Ex. B-1, p. 5).

Structure of Ex. UUU.

11. Norman next steps into the field of typewriting manufacture to express a series of conclusions, each of which is erroneous. Norman took a sample of solder from various keys on N 230,099. He notes that the nickel content in these samples varies greatly and that there is more nickel in the solder on N 230,099 than in the solder on other Woodstocks. Further, he notes that there is more nickel in the solder on what he describes as altered keys of N 230,099 than on those keys designated unaltered. In this entire experiment and in his conclusions Norman exposes his complete ignorance of the manufacturing procedure at Woodstock in 1929, and that ignorance renders his affidavit worthless. Mr. Conrad Youngberg, a longtime employee of Woodstock and the plant superintendent from 1929 to 1933 (Ex. C), Mr. Otto Hokanson, also with many years at Woodstock and the plant superintendent from 1925 to 1929 (Ex. D), Joseph Schmitt, another man with many years of experience at the Woodstock plant (Ex. E), all agree that no nickel was intentionally mixed in their solder at all. Any nickel content was accidental, of insignificant quantity and was not uniform. Actually, the type-bar with the type attached by solder was dipped into a nickel bath to furnish a nickel plating at the end of the operation. Thus, the variation in the amount of nickel in each of Norman's specimens would not indicate a variation in the nickel content of the solder but would indicate how much of the surface nickel plate he took off with the underlying solder. By the same token if there was an "altered type", less and not more nickel would be found since, as the three Woodstock men state, it would not be normal for the "altered type" to be nickel plated anew, while original plating would necessarily be lost. Thus the very opposite of Norman's conclusion would be correct.

12. Norman says that he made a ribbon-thread count. How he made it is left unstated and there is a serious question as to whether the methods available to him would permit an accurate count (Ex. B-1, p. 8). Ehrlich announces no such finding. But even assuming such a

count, the government has already respectfully noted to the court that it is no part of the government's case that the Baltimore papers were typed in the same time order as the order of the dates upon those documents.

13. As for the conclusion of Norman that some Baltimore sheets were cut off after the typing, it is of no significance. There is no proof that it is so, but even if so it would avail the defendant nothing (Ex. B-1, p. 4). Similarly, Norman's "rain-experiment" that left a Woodstock out in the rain for two weeks and to the accompanying rust, from which he concludes that N 230,099 could not have been in the rain in 1945 as Lockey testified, touches upon collateral testimony of a defense witness, and nothing more.

14. Norman notes that his analyses of nineteen types on N 230,099 reflect ingredients not on other types in the same machine. The Woodstock employees state that it was entirely possible that the type stockpile at the plant would contain types made from different batches of steel. No attempt was made to have all the type on one machine from one precise steel formula. By the same token, a base from one period could well have type produced at an earlier date. As for the varying degrees of solder on the type pointed out by Norman, Schmitt, who looked at the few photographs of N 230,099 given us on this motion, says this was a usual plant job (Ex. E). Both Hokanson and Youngberg (Exs. C, D) state that the soldering of type at the plant left many type bars with greatly varying quantities of solder. The "abnormal tool marks" on three letters of N 230,099 from which Norman concludes that there was a deliberate alteration of the type are recognized by the Woodstock men as mere evidence of rough wear. They all differ with Norman's statement that the Woodstock Company changed its "t" die in 1929. Norman reaches this conclusion from the fact that a machine he is using as a standard, has a "t" of a different design from the "t" on N 230,099. From the statements of the Woodstock executives it would appear that Norman's machine has been altered as to its letter "t". This is another basis for attack upon the Norman affidavit. We have no assurance that his standards are reliable. In any event, his conclusions are unsound and do not support the defendant's application.

Government's Search for Typewriter other than N 230,099.

15. I turn now to the alleged statements of Mr. O. J. Carow, as set forth on pages 15 et seq., of the first affidavit of Chester T. Lane. Mr. Carow states that agents of the Federal Bureau of Investigation visited him at a time well before the first trial and before the F. B. I. knew that Ira Lockey possessed the Hiss typewriter. Carow is reported to have stated that he recalls being questioned by the agents on that occasion as to the number of the missing Hiss typewriter and his recollection is that the agents were looking for a number other than N 230,099, the serial number of Ex. UUU. The defense then argues that this other number then mentioned by the agents must be the number of the actual Hiss machine and that the knowledge of the existence of this other machine is possessed by the F. B. I. This is of course absurd since when the agents called upon Mr. Carow they did not know the number of the Hiss machine. They had had no opportunity

to examine Exhibit UUU. The records of the Woodstock Company are such that it was impossible to trace in that fashion the serial number of the Hiss machine. When the agents spoke to Carow, they had no serial number to seek out, but were investigating an entire series of numbers on the theory that the sought-for typewriter was somewhere within that series.

16. The affidavit of Mr. Earl J. Connelly, attached hereto, unequivocally states that the Federal Bureau of Investigation has no knowledge of any Woodstock typewriter pertinent in any way to this prosecution other than Exhibit UUU (Ex. F.).

Conclusion on Point II.

17. In closing, I quote from the defendant's motion Exhibit 2-G, which is a letter of Document Expert Donald Doud, explaining his conclusions after having worked diligently and conscientiously for the defendant for some time. He states:

> "In your (Chester T. Lane) letter of January 9, 1952 you asked me to submit an affidavit on two unrelated points with which you hope to establish the theory that typewriter 230,099 (Trial Ex. UUU) was a fraudulently made up machine in support of the Government's case against Alger Hiss. I have worked conscientiously and diligently on this matter but no evidence I have gathered to date has given me any reason to believe that theory and I cannot subscribe to a statement tending to imply that evidence I have gathered supports that conclusion."

Mr. Doud further states that in his expert opinion the suggestion that Chambers constructed the trial exhibit to produce type identical with the Hiss machine is an almost impossible task and one which he thinks could not be accomplished by anyone, expert or inexpert. We have by this letter the opinion of the defendant's own expert that his entire theory is based on an impossible foundation. That theory should be rejected by this court because it is inherently unsound and because no credible evidence has been offered to support it. Therefore, it could not conceivably produce a verdict of acquittal. In regard to the question of due diligence, I respectfully note to the court that this theory of forgery by typewriter is not of recent concoction, but was expressed by the defendant himself at the time of sentence on January 25, 1950, indicating the consideration of that theory at that time (R. 3302).

III. Edith Murray.

1. In the direct examination of Mrs. Chambers at the second trial the defense was forewarned of the Government's contention that Mr. and Mrs. Chambers had a negro maid while living in Baltimore in 1935 and 1936. As early as November, 1948, at Baltimore Mrs. Chambers told the defense of Edith Murray, told them her first name and described her contacts with Mrs. Hiss (R. 1031). Again on cross-examination Mr. and Mrs. Hiss were both asked if they visited the Chambers' apartment in Baltimore in 1935 and 1936 and were cautioned by the prosecuting attorney that they should carefully weigh their answer to that question. In this way the defendant was put on guard

that he would have to meet proof indicating that he had visited the Chambers' home in Baltimore. Further, the mere fact that evidence is submitted in rebuttal does not eliminate the legal requirement of due diligence in the obtaining of answering proof. In the light of all the factors here, it is apparent that the defendant should be required to have produced any evidence impeaching Edith Murray at the second trial. The defense did not request any adjournment or other opportunity to meet the testimony of Edith Murray. It cannot now seek a third trial on that ground.

2. Furthermore, the two affidavits submitted by the defense in support of its third contention at best would serve only as attempted impeachments of the testimony of Edith Murray. It is well established that such evidence as a matter of law is not sufficient to obtain a new trial. Hence, accepting arguendo these two allegedly impeaching affidavits at face-value, the defendant has not produced adequate evidence under this contention to entitle him to a new trial.

3. The affidavit of William R. Fowler (Ex. 3-B) states in substance that he was the beau of the housekeeper's niece, at 903 St. Paul Street, Baltimore. He informs the court that before his marriage he frequently dined at 903 St. Paul Street with his intended in-law, and that subsequent to his marriage he dined there approximately four times a week. Mr. Fowler further assures the court that the dinner table of his intended was a source of complete and thorough information on the activities of the entire household. It is the testimony of Mr. and Mrs. Chambers, and has not previously been contradicted, that they, with their first child, were tenants at 903 St. Paul Street during part of the time that Mr. Fowler dined there. It was further the testimony of the Chambers and of Edith Murray that Edith Murray worked as a day-maid for the Chambers while at that address. The defense submits the affidavit of Mr. Fowler with the allegation that not only was Edith Murray not a maid for the Chambers at 903 St. Paul Street, but that according to Mr. Fowler's recollection, the Chambers did not live there at all.

4. I respectfully call the court's attention to the following factors in evaluating this affidavit of Mr. Fowler, which even if totally acceptable as to conclusion, would not warrant a new trial. The precise times when Mr. Fowler was at the St. Paul Street house are not set forth, nor can they be set forth, and similarly the precise dates and times when Edith Murray was at that house are not set forth. Therefore, it is entirely possible that though both visited that house, they would not have seen one another. Secondly, no reason is set forth why the presence of Miss Murray at the house, even if then known to Fowler, would have impressed him so that he would have recalled the fact, including the detail of names, to this date. The dependence of Mr. Fowler upon the gossip discussed at the dinner table hardly suggests worthwhile recollection. Even assuming that Mr. Fowler was produced at the first trial and gave the evidence such as was contained in his affidavit, it is inconceivable that it would have produced a verdict of acquittal.

5. The Government submits herewith the affidavit of Louise T. Fowler, the wife of William Reed Fowler (Ex. G). Mrs. Fowler states

that subsequent to her marriage on August 18, 1934, she and her husband visited 903 St. Paul Street " * * * not more often than once every three weeks." Even the defendant must concede that Chambers was not at 903 St. Paul Street and was not even in Washington before late 1934 or early 1935. It is therefore obvious that Chambers and his family were at 903 St. Paul Street after the marriage of Mr. and Mrs. Fowler. By the sworn statement of Mrs. Fowler she and her husband visited 903 St. Paul Street at that time no more than once every three weeks. This is additional evidence that the attempted impeachment by Mr. Fowler is without substance.

6. The second affidavit submitted by the defendant in support of this contention is the sworn statement of Louis J. Leisman. Leisman swears that he lived and worked at 1619 Eutaw Place, Balitmore, from September 1935 to December 1936, as the janitor of the apartment house. The Chambers lived at 1617 Eutaw Place from October 2, 1935 to June 27, 1936. Both Mr. and Mrs. Chambers and Edith Murray have testified that Miss Murray served on occasion as a maid for the Chambers at the Eutaw Place apartment. Leisman states that he recalls the Chambers as tenants of the house adjoining that of his then employer, but avers under oath that they had no maid.

7. Assuming for the moment that this affidavit, if totally true, lent support to the pending motion, I will analyze both it and its source, and in reverse order. At the outset, Leisman and the defense saw fit to omit his present whereabouts from his affidavit. This is, of course, a departure from regular practice. Whether or not it was done by design is best indicated by the past activities of the affiant, particularly insofar as they reflect his character, or lack thereof.

8. To date, the Government has discovered records of two criminal convictions against this person, but because of positive evidence of the use of aliases by the affiant I hesitate to state that this is the sum total of his prior relations with police authorities. For now, let it be said that on January 7th, 1923, Mr. Leisman, then using the name of Louis J. Smith, was convicted in Buffalo, New York, of criminally discharging a firearm in violation of Section 1906 of the Penal Law. On November 7th, 1931, Mr. Leisman, using the name set forth in his here submitted affidavit, was convicted in Baltimore, Maryland, of violating the National Prohibition Act and was given a jail sentence together with a fine of $250.00. The information stated that he was operating a "speakeasy" in the city of Baltimore at which he produced and sold various types of liquor without benefit of proper authorization. To avoid paying the committed fine, Leisman swore that he had less than twenty dollars non-exempt moneys and was ultimately released as a pauper pursuant to Section 641 of former Title 18. It is also known that in May of 1950 this affiant was charged in Maryland with criminal assault but was acquitted after a trial.

9. To further indicate how responsible and reliable a reporter of history Mr. Leisman is, I am compelled to delve briefly into his economic and social past. Leisman has never been able to maintain any employment for any extended period. For example, investigation has established that, between the years 1942 and 1951, Leisman has held at least twenty-six different jobs, most of which he lost because of being

continuously intoxicated. Between the years 1919 and 1951 Leisman is now known to have had at least forty-seven different residences. In September of 1938, Leisman stated under oath to an election official that he had resided in the third precinct, first district for the prior eighteen years, although many of his addresses within that period were not in the precinct. The affiant has had two wives and one mistress, the last named being frequently beaten and once hospitalized by Leisman. In summary, Leisman's past activities establish him to be totally irresponsible and an excessive drinker, if not a confirmed alcoholic.

10. Turning to the content of the affidavit, it is apparent that assuming Leisman did work at 1619 Eutaw Place as he claims, his opportunities of observation of 1617 Eutaw Place were inadequate. His own statement of the positions of vantage he always assumed, demonstrate this inadequacy. Despite Mr. Leisman's statement to the contrary, a tenant of 1617 Eutaw Place, there when the Chambers resided there, has advised the Government that there was a readily available rear entrance which Edith Murray could well have used. A physical inspection of the premises reveals that this entrance still exists.

11. Innumerable residents of that area in 1935 have informed the Government that Negro maids served many people in that immediate area in 1935. Hence, even if Mr. Leisman had seen Edith Murray in 1935 in or near 1617 Eutaw Place it is highly unlikely that sixteen years later he would recall her, and her association with the Chambers.

12. It is established by independent documentary proof that the Chambers resided at 1617 Eutaw Place from October 2nd, 1935 to June 27, 1936 (Ex. H). For the affidavit of Leisman to appear of value, it must state that Leisman was in the adjoining house during that period. Conveniently, Leisman swears that he was employed and resided at 1619 Eutaw Place from September 1935 (a month before Chambers' arrival) to December 1936. Leisman offers no independent proof to corroborate him on these all important dates.

13. The Government has been advised by three independent and reliable witnesses that in fact Mr. Leisman was not employed and did not live at 1619 Eutaw Place, Baltimore, Maryland, during the period set forth in his affidavit. From the evidence now at hand it is certain that Leisman lied under oath when he swore he was employed and resided at 1619 Eutaw Place in the last quarter of 1935 and through 1936. Leisman apparently did work for a short period in early 1935 at that address but was soon fired because of his drinking and general inattention to duty. It would appear that when fired he took with him some of the rent money he had collected for his former employer.

14. This is the man and this is the offered "evidence" upon which the defendant seeks a new trial. I believe further argument on this issue would be superfluous and will not burden the court with it. The evidence on this issue is totally inadequate to warrant a new trial.

IV. The time of Chambers' break with the Communist Party.

1. As Point IV of its motion, the defense contends that Chamleft the Communist Party before April 1, 1938, and not in approximately mid-April, 1938, as Chambers testified at both trials. From this premise the defense argues that Chambers' story is a fabrication because at least one of the Baltimore documents is dated April 1st, and that if Chambers left the Party before that date, he could not have obtained it from the defendant as he testified. From this conclusion the defense then proceeds to the ultimate conclusion that the entire story of receiving documents from the defendant is a fabrication.

2. In substantiation of this general theory, the defense first points to early statements of Chambers before the Congressional Committee to the effect that he left the Communist Party in 1937. It is apparent from an examination of those statements that the answers given were offered as an approximation with no need for any great specification of date of break and without opportunity for any considerable thought by Chambers as to the precise date of break. (Later, but still in August 1948, before the same Committee, Chambers fixed the time as 1938.)

3. At both trials Chambers was asked for a close approximation of the date of his break at a time when considerable importance was attached to that date. He fixed the break as of on or about April 15, 1938. In giving this testimony, Chambers, as a collateral circumstance, referred to the fact that it was about then that he obtained a translation from the Oxford University Press.

4. The defense also submits correspondence and affidavits indicating that the arrangements for this translation were made in early March, 1938, and that correspondence ensued between Chambers and the Press Company into the summer of 1938. All this evidence is directed toward this one answer of Chambers at the second trial. "Mr. Chambers: I stayed at the Old Court Road for about a month, I believe, until I had obtained a translation to do." In total, it indicates only that the translation came before April 1, 1938. It proves nothing as to the time of break, other than, as already conceded, that Chambers erred as to its happening at the time he received the translation.

5. As Exhibit S-1, the defendant submits the supplemental affidavit of Paul Willert, an officer of the Oxford University Press who dealt with Chambers in 1938. Willert is ostensibly brought forth to further establish the undisputed fact that Chambers obtained the translation before April, 1938. His chief "contribution", however, is in another field. Willert reports his recollection of Chambers as a man of " * * * unprepossessing appearance and general nervousness." Willert presents his diagnosis that Chambers " * * * was so clearly near a nervous break-down * * *." This totally unqualified individual volunteers that Chambers gave him the impression " * * * of being hysterical and suffering from persecution mania". Willert even concludes that because of conversation with Chambers, Willert had no doubt but that Chambers had been in Europe, and "in recent years", no less. It is apparent that any person who would swear to such *unsubstantial* opinions is of no value as a reporter of facts. To be charitable I will

go no further in examining the judgment of Mr. Willert. He contributes nothing to assist the defense here.

6. At best, the proof submitted by the defendant on this issue indicates that in his offhand statement as to the time of obtaining this translation, Chambers erred by approximately one month. This is at most an impeachment on a collateral matter and is not such evidence as would entitle the defendant to a new trial. To the contrary, even as is conceded in the affidavit of Chester T. Lane, the evidence produced by the defendant on this issue goes far to corroborate the testimony of Chambers regarding his activities immediately before and after his break with the Party. Certainly it establishes beyond doubt that his early statements of a break in 1937 were rough approximations containing a margin of error totally unintended to deceive.

7. Going to the real issue—when Chambers left his Mount Royal Terrace home and broke from the Communist Party, the affidavit of Paul P. Hlubb (Ex. I), attached hereto, establishes that as late as April 12, 1938, Mrs. Chambers ordered the furnishing of gas and electric service for a room in a house on Old Court Road, Baltimore. The affidavit of Mr. Hlubb follows the utility record of the Chambers' family during this period in Baltimore and indicates that the Chambers had and paid for gas and electric service at their Mount Royal Terrace apartment in Baltimore until April 9, 1938.

8. The affidavit of Andrew J. Ludwig (Ex. J), also submitted here, establishes that Mrs. Chambers paid rent on March 14, 1938, for the Mount Royal Terrace apartment and was entitled to occupy the same into the end of April, 1938.

9. The affidavit of Lloyd Stoker (Ex. K) establishes that on April 1, 1938, Mrs. Chambers brought the family car to a repair shop in Randallstown, Maryland, a suburb of Baltimore. The Chambers automobile was brought to the service shop for repairs necessary before a long trip such as Chambers then had planned for approximately one month later.

10. I have also submitted facsimiles of two letters from Mrs. Chambers to the Headmaster of the Park School (Exs. L, M), which indicate clearly that the Chambers were still at Mount Royal Terrace on April 2nd, 1938 and would be in Baltimore a few days after April 9th, 1938. These letters came from the same school files which agents for the defense have previously examined. They apparently did not see fit to present these letters to this court. The contents of the letters establish them to be letters from Mrs. Chambers to the headmaster and place her and her family in the Mount Royal Terrace home until after April 1st, 1938.

11. An analysis of the defendant's own exhibits relative to the fact-issue of when Chambers left Baltimore corroborates the testimony of Chambers. Ex. IV-B-9 establishes that Chambers received a parcel at his Mount Royal Terrace home on March 18, 1938. There is no evidence that he left that home until approximately April 14, 1938, that is, two days after the posting of a letter to him from the Oxford University Press in New York, which letter was returned as

undeliverable (Ex. IV-B-11). We have the exhibits enumerated in the above paragraphs to establish that Chambers remained at Mount Royal Terrace into the second week in April. The defense adds to this Ex. IV-B-14, a receiving report of the Oxford University Press, which indicates that Chambers sent a package from Baltimore which was received in New York on May 4, 1938. Coupled with this is the Chambers letter of May 1, 1938 which obviously was written upon his arrival in Florida. Thus, the pattern of Chambers in Mount Royal Terrace until mid-April and arrival in Florida on or immediately before May 1, 1938 is clearly depicted by the defendant's own exhibits.

12. This evidence, it is submitted, establishes conclusively that Chambers was in his Baltimore home until April 1, 1938 and remained in the Baltimore area until mid-April, 1938. The totality of proof on this issue establishes conclusively that the contention of the defendant is without substance and in no event warrants the granting of a new trial. Certainly the exercise of due diligence would have produced all the evidence now suggested by the defendant before the termination of the second trial.

V. Lee Pressman.

1. As its final contention, the defense points to testimony of Lee Pressman given before the House Committee on Un-American Activities on August 28, 1950. This testimony is put forth apparently as impeachment of the trial testimony of Mr. Chambers. Accepting the statement of Pressman that Alger Hiss was not a member of his small Communist group in Washington as fact, it does not contradict any trial testimony of Chambers. At no time during the trial was Chambers asked or permitted to identify Pressman as a member of the same Communist group as the defendant. Chambers at no time stated at either trial that he had knowledge that Hiss and Pressman attended simultaneously meetings of any Communist group.

2. The prosecution in its direct questioning of Chambers at no point introduced the subject of Lee Pressman. For these reasons it is apparent that any statement of Pressman, denying that he had konwledge of Hiss's membership in the Party, would be of no value whatsoever in determining the issues in this prosecution or in evaluating the testimony of witnesses. At best, it would be a subject for attempted impeachment of extra-judicial testimony of Chambers. It is clearly not sufficient to warrant the granting of a new trial.

Conclusion.

The affidavits submitted by the Government in opposition to this motion for a new trial are prepared in the knowledge that the court presided at a second trial of lengthy duration and is well-grounded in the facts concerned. I respectfully submit that the supporting papers submitted by the defendant are on their face inadequate to warrant the granting of a new trial; even accepting all allegations as fact, they indicate insufficient proof to call for the setting aside of a judgment arrived at only after extended litigation and appeal.

Moreover, I submit that the affidavits submitted in opposition to this motion fully establish that the defense possesses no evidence suffi-

cient to warrant a new trial or to warrant the conducting of a hearing on the papers submitted. This motion should be denied without hearing and without further submissions of sworn or unsworn statements. There is before the court, with papers submitted by the defendant and the opposing papers of the Government, full and adequate evidence upon which this court can arrive at a considered decision that no new trial should be here granted.

Finally, as is developed in the memorandum of law submitted by the Government, there is a serious question as to whether this motion must be denied because it was not made within the two year period provided by Rule 33 of the Federal Rules of Criminal Procedure.

MYLES J. LANE.

Sworn to before me this
19th day of May, 1952.

LAWRENCE U. COSTIGLIO
Notary Public, State of New York
Qualified in New York County
No. 31-0775850
Cert. filed with N. Y. County
Clerk and Register
Term Expires March 30, 1953.

EXHIBIT A.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA v. ALGER HISS, Defendant.	AFFIDAVIT C 128-402

WASHINGTON
DISTRICT OF COLUMBIA

RAMOS C. FEEHAN, being duly sworn, deposes and says:

1. I am a Special Agent of the Federal Bureau of Investigation, assigned to the FBI Laboratory in Washington, D. C. I have a Bachelor of Education degree and have taught three years in the public school system in the State of New Hampshire. I received a specialized course of training and instruction in the examination and comparison of documents in the FBI Laboratory, Washington, D. C., under qualified Document Examiners. I studied books, attended lectures and conferences, and examined thousands of specimens. Upon becoming sufficiently qualified in this work I was granted authority to examine cases on my own responsibility. Since 1938 I have examined hundreds of cases containing thousands of specimens involving handwriting, handprinting, typewriting, obliterations, restoration of writing, paper, inks and writing implements. I have qualified as an examiner of questioned documents and provided testimony in Federal, State and Military Courts in this country.

2. I appeared as a witness for the United States Government in both the first and second trials of Alger Hiss, and on those occasions gave as my opinion that the Baltimore documents #5 through #9 and #11 through #47 were typed on the same typewriter that was used to type the four known standards of typewriting, to wit, Government exhibits #34, #37, #39 and #46.

3. When I received the documents referred to as the Baltimore documents, which were Exhibits #5 through #9 and #11 through #47 in the second trial, and the four known specimens of typewriting referred to above, I was requested to compare the typewriting on the various documents and to report my conclusion as to whether or not they were typed by the use of one typewriter. In my examination and comparison, and as a basis for my conclusion, I performed the following examinations. I examined and compared each typewritten character appearing on the Baltimore documents #5 through #9 and #11 through #47 with the known standards, taking into consideration style of type, alignment, horizontal and vertical spacing, footing, variations and defects. A Spencer binocular microscope, low magnification movable hand glass and calibrated glass templates were used in my examination.

4. As a result of my examination and comparison I reached the conclusion that the Baltimore documents #5 through #9 and #11 through #47 and the known standards #34, #37, #39 and #46 were typed by the use of the same typewriter. This was the opinion I expressed at both the Hiss trials. At the second trial, after giving my opinion, I was questioned as follows (P. 1075 of the transcript of testimony):

> "Mr. Murphy: Now, would you come out of the witness chair and point out to the jury some of the evidence which you discovered which made you come to that conclusion."

5. I was thereby requested to demonstrate to the court and jury "some" of the characteristics used as a basis for my conclusion, which I did by the use of the letters "g", "e", "i", "o", "u", "d", "a", "r", "l", and "A". The letters enumerated appeared many times in both the Baltimore documents #5 through #9, #11 through #47 and Government Exhibits #34, #37, #39, and #46, and their peculiar individual characteristics were called to the attention of the court and jurors.

6. The use of the ten characters for demonstration purposes by me at the trials does not mean my examination and resulting conclusion were based only on ten characters. When making the examination and comparison of the typewriting on the questioned and known documents with the use of instruments in the FBI Laboratory in Washington, D. C., I examined each and every character of typewriting appearing on the questioned and known documents. I found that the style of type employed was that of Woodstock Pica Type spaced ten letters to the inch. Defects in characters appearing on the questioned documents I found to be in common with defects in the same characters appearing on the known standards. Impressions of like characters varying from the normal in both sets of specimens were in agreement. The individual characters as they appeared with respect to their position on the lines of typewriting (inclining to right or left), their relationship with respect to their position with the preceding or following letter (high, low, high right, high left, low right, low left, right and left of center) and the evenness of impression (heavy at bottom, top, left or right side) with variations, I found to be consistent in the typewriting on both sets of documents. I found no unexplainable differences existing in the typewritten characters on the questioned and known documents, nor did I find any evidence that more than one typewriter was used.

7. As a result of my examination and comparision I reached the conclusion that Baltimore documents #5 through #9 and #11 through #47 were typed by the use of the same typewriter that was used to type Government exhibits #34, #37, #39 and #46.

(S.) Ramos C. Feehan

Sworn to before me this
3rd day of March, 1952.

(S.) Wm. C. Jackson
Notary Public

My commission expires 4/15/55

Exhibit A.

EXHIBIT B-1.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA v. ALGER HISS, Defendant.	AFFIDAVIT

WASHINGTON
DISTRICT OF COLUMBIA }

JAMES C. CADIGAN, being duly sworn, deposes and says:

I am a Special Agent of the Federal Bureau of Investigation, assigned to the FBI Laboratory in Washington, D. C. I have a Master of Science degree from Boston College, Newton, Massachusetts. I received a specialized course of training and instruction in the examination and comparison of documents in the FBI Laboratory under qualified document examiners. I have studied books, attended lectures and conferences and examined many thousands of specimens. Upon becoming sufficiently qualified in this work I was granted authority to examine cases on my own responsibility. Since 1941 I have examined thousands of cases containing many thousands of specimens involving handwriting, handprinting, typewriting, obliterations, paper, inks and writing instruments. I have qualified as an examiner of questioned documents and provided testimony in Federal, State and Military Courts in this country.

I have examined the original Baltimore Documents referred to in the Second Supplemental Affidavit of Chester T. Lane with respect to the statement in Lane's affidavit listed as Point #1: "That the Baltimore Documents were not typed by one person, but by two, and probably more, and that therefore Priscilla Hiss cannot have typed all of them, as Chambers said she did." Lane bases this statement exclusively on the affidavit of Elizabeth McCarthy (Exhibit 2S-I).

McCarthy bases her conclusion upon a number of characteristics of her own choosing and the intended meaning and significance of such terms as "habits of mind" are unfamiliar and meaningless to me. It is true that certain aspects of touch and form could be of significance where an experienced typist was following habits and procedures of her own, but these certainly cannot be applied to an inexperienced typist who is copying documents and obviously influenced by the form of the source material. Variation in pressure would be expected of the nonexpert typist, but I find no more variations in pressure in the Baltimore Documents than in the known standards. Also, differences in the color of the typed letters are not necessarily due to a difference in pressure, but here are due largely to uneven inking in the ribbon and it does not take an expert to see that there is fre-

quently greater variation in the darkness of the type on a single document than there is between documents in the Baltimore Documents.

As to form, I found the left-hand margins of the Baltimore Documents vary widely and so do the known standards; on the Baltimore Documents, where the exhibit is more than one page, the page numbers are composed of a dash on either side of the number separated by a space, thus: — 2 —. Instances such as Baltimore Exhibit 8, page 2, and known standard Government Exhibit 39 show this same feature.

I do not agree with the statement made by Lane in his third point: "That neither Pricilla nor Alger Hiss made the pencil corrections on the Baltimore Documents." He bases this exclusively on the affidavit of Elizabeth McCarthy (Exhibit 2S-I).

McCarthy states that " * * * the penciled corrections give the appearance of having been made in one continuous operation rather than at the separate times when the separate pages should have been typed." She gives nothing to support this statement or show how she determines the relative age of pencil markings. As a matter of fact, the writing substance in pencil lead is graphite which is chemically so stable that no change can be detected over a period of many years. It is, therefore, not susceptible to chemical tests which are applied to ink writing to show chemical or physical changes.

McCarthy states: "The corrections and proof-reading marks were made with a soft, grayish-black pencil, in approximately the same condition of wornness and bluntness throughout, * * *." I found that the variation in the thickness of pencil leads of the same grade and type, particularly those of mechanical pencils, is very slight. Further, the physical manner in which graphite rubs off on the surface of paper does not leave a well-defined line which can be measured with the same accuracy as the diameter of the pencil lead itself, and I, therefore, feel it is impossible to say how many pencils were used in the various pencil markings on the Baltimore Documents and the statements of McCarthy as to the times of these markings are not based on provable findings and, consequently, her claim is worthless.

McCarthy further states, "I have studied numerous samples of the handwriting of Alger and Priscilla Hiss, as well as samples of documents furnished to me as taken from Alger Hiss's files in the 1932's and showing his correctional and proof-reading habits. In my opinion neither Alger nor Priscilla Hiss could have done the pencil markings on the Documents." I do not believe that the few brief markings comprising the pencil corrections on the Baltimore Documents are sufficient for any accurate or valuable conclusions; and that writing characteristics are insufficient to determine whether any particular person or persons did or did not make these marks; nor is it possible to give a valid conclusion as to the number of persons who made these markings. I further do not feel that any competent expert would attempt to reach a conclusion on so limited material, if based solely on technical considerations without influence or bias.

The defense attorney as a footnote adds that "Spectrographic analysis of the typewriting ink at the edges of the pages which were cut off in the middle of line-end letters might have enabled us to prove more effectively that the cutting was done after the typing. The Government would not let us make the excisions necessary for this analysis."

The Baltimore Documents are of two different sizes: 8½″ x 11″ and 8″ x 10½″, both of which are common letterhead and second sheet

sizes. Norman states in his affidavit, referring to his category B (the 8″ x 10½″ papers) that "From the arrangement of the typing on the pages of the documents in category B, including the observable narrow margins and the frequent slicing of the edge of the paper through the typed letters at the right margin, it appears probable that at some time after the typing was done all the sheets in this category were cut down from some other size or sizes to the present 8″ x 10½″ size." Norman does not claim or even suggest as Lane does in his footnote that a spectrographic examination would have supported this contention which "appears probable."

I feel that a spectrographic approach is scientifically unsound. A microscopic examination, however, shows that the black ink of the typewriter ribbon can be observed to be present on Baltimore Exhibits 11 and 17, pages 1, on the edges of the paper where the typing has run over and, therefore, shows that the paper was this size when the typing was done. Due to the thinness of the paper, this cannot be accurately observed in all instances, but is present sufficiently to show that the claim and conclusion on this point are in error.

On the contrary, I believe the narrow margins on the right sides of many of the Baltimore Documents and the few instances where the type ran off the edges of the paper on the 8″ x 10½″ sheets are almost certainly due to the failure of the typist to reset the margin stops for the narrower size paper.

Defense Attorney Chester Lane states as his fifth point: "That the same two categories show such different characteristics of aging and discoloration that they cannot have been stored together for ten years in a single envelope, and therefore cannot all have been kept in the envelope which Chambers recovered from the dumbwaiter." Lane bases this statement exclusively on the statement of Daniel P. Norman in his affidavit (Exhibits 2S-III).

Norman states in his affidavit that "All documents in category A (8½″ x 11″) are heavily yellowed and show marks of age over substantial portions of their area to a degree not apparent in any of the documents in category B (8″ x 10½″). The appearance of the paper in the category B documents is very similar to that of Government manifold paper known to have been stored in ordinary office files from 1937 to 1952. The appearance of the paper in the category A documents is that of sheets which have been subjected to deteriorating conditions which were not uniform across the area of the sheets."

The effects of age on the Baltimore Documents are not uniform across their areas and should not be because these documents were obviously folded in fourths for a considerable period of time. For example, Baltimore Exhibit 8 shows progressively increasing yellowing in the upper right portion of the pages and also progressively increasing discoloration along the folds. There is a long yellow stain visible under ultra-violet light which almost bisects the upper left portion of the last five pages of this exhibit. This stain becomes larger and more intense, reaching the maximum on the last two pages. Additionally, there is a worn area and a hole in the center of page 13 where the folds intersect. So obvious are those aging characteristics that they permit the arranging and folding in the manner in which they were stored.

Norman states: " * * * variations in heat and humidity being in particular responsible for variations in the rate of aging and yellowing

of paper. In view of the fact that most of the papers in both category A and category B are of the same general class (predominantly chemical wood pulp) and show no chemical idiosyncrasies (such as abnormal alum concentrations which would be reflected in abnormal acidity), I concluded that the two categories of documents could not have been stored together under the same atmospheric conditions for most of their existence."

The inference that papers of the same general class will show the same aging characteristics is without foundation. Far more important are variations in such constituents as rosin (sizing material), iron, lignin and bleaching. Rosin-sized paper is particularly susceptible to yellowing and aging and these changes are accelerated by heat and light. Consequently, whether or not they are of the same class, they cannot be expected to show the same aging characteristics if they are not identical in composition.

With reference to the number of typewriter ribbons, the McCarthy affidavit states as follows: "Although the pencil corrections would appear, as I have said, to have been made in one operation, examination of the ribbon imprint appearing on the original documents makes it seem extremely unlikely that the documents were typed in a normal single continuous operation, or even consecutively by the same person over a period of three months. I base this observation on the fact that the ink on documents dated on the same day sometimes differs radically in color, documents dated within a few days of each other likewise show ink of different shades, and documents typed months apart show ink of much the same color. At least four, and probably more, ribbons were used, and if the documents were typed consecutively according to their dates it would appear that these four or more ribbons were alternately being put on and taken off the machine, sometimes daily, or every day or so. The best ribbon, making the blackest and clearest impression, was used only once, in Baltimore Document No. 9. I do not undertake to suggest any explanation as to why this alternation of ribbons may have taken place, but merely point out that it appears entirely inconsistent with the normal use of a typewriter."

This statement appears typical of efforts to justify any claim which might be made. She first says that one phase of the preparation of the documents, the pencil corrections, was made in one operation, and turns right around and says that another phase, the typing, was probably not done consecutively or even over a period of three months. Actually, the color of the typewriter impressions does vary, but as may be readily observed, the type impressions of the individual letters will vary as much on one document as they will between documents. Obviously, variations in pressure and varying amounts of ink on a used ribbon will result in different color impressions. Baltimore Exhibit 9 is on bond paper and would be expected to take a heavier impression than the thin manifold paper of the other documents. I do not presume to say whether one or more ribbons were used because there is not sufficient evidence to permit any such statement.

No definite statement can be found in the Ehrlich affidavit in support of the claim that four or more ribbons were used. She does state "The Baltimore Documents are all on poor types of paper with inadequate sizing and a high degree of absorbency. In many instances the ribbons were apparently moist. These factors resulted in obscuring the exact characteristics of the type * * * ".

Exhibit B-1.

The affidavit of Daniel P. Norman states "Mr. Lane asked us to make a separate study of the ribbon thread counts visible on the typed Baltimore Documents. This study has established to our satisfaction that at least four ribbons were used in the typing of these documents. Alternation in the use of the various ribbons bears no discernible relationship to any possible grouping of the documents by their dates; in fact, in a number of instances two documents dated some time apart are typed with a ribbon of a given thread count while other documents with dates in between are typed with a ribbon of a different count."

Conspicuous are the use of the terms "given" and "different" counts. No figures are cited for verification or refutation. Even if it were possible to make an accurate thread count of each and every letter of the Baltimore Documents, a difference in thread count would not justify a statement that "at least four ribbons were used." Considerable variation will be found throughout the length of a typewriter ribbon. I have made inquiries as to the Federal specifications governing the ribbon thread counts of typewriter ribbons and according to Federal Specifications DDD-R-311D, it is permissible for grade A cotton ribbons to have a variation of five threads per inch in either the vertical or horizontal threads. In view of this, I feel there is no basis for an accurate determination as to the number of typewriter ribbons used in typing the Baltimore Documents.

On April 29, 1952, I examined the dumb-waiter shaft in the Levine home where the Baltimore Documents were allegedly hidden by Levine at the request of Chambers. I observed numerous white paint splatterings similar to those appearing on the envelope, Government Exhibit 19, in the immediate area where Government Exhibit 19 allegedly was placed. I removed samples of the paint from the shaft and brought them back to the FBI Laboratory in Washington where I turned them over to Special Agent J. William Magee.

(s) James C. Cadigan

Sworn to before me this
14th day of May, 1952

(seal) Louise D. Bennett
Notary Public

My Commission Expires August 19, 1953.

Exhibit B-1.

EXHIBIT B-2.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA v. ALGER HISS, Defendant.	AFFIDAVIT

WASHINGTON
DISTRICT OF COLUMBIA

J. WILLIAM MAGEE, being duly sworn, deposes and says:

1. I am a Special Agent of the Federal Bureau of Investigation, United States Department of Justice, and I am assigned to the FBI Laboratory in Washington, D. C. I have been so assigned since January, 1939. Prior to my employment with the Federal Bureau of Investigation I attended the University of Mississippi where I received the Bachelor of Arts and Master of Science degrees in chemistry in 1934 and 1935, respectively. I attended the University of Texas for three years and was graduated by that school in 1938 with a Doctor of Philosophy degree in chemistry. During my employment with the Federal Bureau of Investigation I have examined thousands of pieces of evidence by the use of both chemical and physical methods.

2. I have examined a sample of paint given to me by Special Agent James C. Cadigan of the Federal Bureau of Investigation, who represented the sample to me as coming from the dumb-waiter shaft in the Levine home. I have also examined paint on the brown envelope, Government Exhibit 19 (Q136), and found the paint on this envelope to be of the same color, texture and composition as the paint from the dumb-waiter shaft. From the examination conducted, I conclude that the paint on Government Exhibit 19 (Q136) could have originated from the same source as the paint from the dumb-waiter shaft in the Levine home.

(s) J. WILLIAM MAGEE

(Seal)

EXHIBIT B-3.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA v. ALGER HISS, Defendant.	AFFIDAVIT C 128-402

WASHINGTON
DISTRICT OF COLUMBIA

RAMOS C. FEEHAN, being duly sworn, deposes and says:

I am a Special Agent of the Federal Bureau of Investigation, assigned to the FBI Laboratory in Washington, D. C., as a qualified examiner of questioned documents. I have set forth my qualifications in detail by affidavit executed by me March 3, 1952, for filing in connection with a motion for a new trial of Alger Hiss on the ground of newly discovered evidence.

I have reviewed a photostatic copy of Elizabeth McCarthy's affidavit executed April 19, 1952. On page 6 she states that "It is a common habit of most typists, when an incorrect letter is struck, to push the carriage back and strike over the wrong letter with the right one. The normal and almost universal tendency, in doing this, is to strike the second, correct, letter more heavily, so as to obliterate the first, incorrect, impression." She states that she finds no less than 27 instances in the Baltimore Documents where this habit is reversed and the incorrect letter is struck more heavily than the correct one. She further states there is *"no such instance"* in any of the Hiss Standards. I find there are more than 329 strike-overs in the Baltimore Documents, and even if her statement were true, the presence of 27 instances where the habit is reversed in a total of 329 strike-overs would in itself show the intentions of the typist to follow the procedure of the "almost universal tendency." In the interest of space the more than 329 typewriting strike-overs appearing on the Baltimore Documents are not listed here, but 50 typewriting strike-overs occurring in the Baltimore Documents are set forth below:

Baltimore Exhibit #	*Page #*	*Paragraph #*	*Line #*	*Word*
5	1	1	2	*M*anchukuo
5	1	1	10	*f*or
8	1	3	2	*i*s
8	2	3	6	*o*ur
8	3	1	6	*f*or
8	5	4	1	co*m*pany
8	5	6	1	*i*ssue
8	6	6	2	e*x*perience
8	7	2	8	di*v*idends
8	11	1	4	short*l*y
8	11	7	2	ver*y*
8	12	4	12	ta*x*ation
11	1	dated Jan. 27	1	U*S*

Baltimore Exhibit #	*Page #*	*Paragraph #*	*Line #*	*Word*
11	1	dated Jan. 28	2	confidence
11	1	dated Jan. 29	4	informed
11	a	dated Feb. 2	3	countries
11	b	dated Jan. 24	2	British
11	b	dated Jan. 24	3	probably
11	c	dated Jan. 28	9	in
12	1	2	4	mining
12	1	2	6	matches
12	1	5	2	private
12	1	5	3	emphasis
12	2	1	1	synonymous
12	2	2	4	possible
12	3	1	5	this
12	3	3	1	Mr.
13	1	1	2	for
14	1	1	7	presumably
14	1	2	4	airfield
16	1	3	7	friendly
17	1	1	2	following
17	1	1	13	becoming
17	1	1	12	myself
17	1	2	16	whereas
19	1	4	1	anxious
20	1	2	4	Taiyuan
22	1	1	6	conversations
22	1	1	8	increase
22	2	1	2	Government
23	1	5	1	five
24	1	2	4	him
25	1	2	4	possibly
26	1	1	5	possible
27	1	1	7	yesterdays
31	1	2	1	Gilbert
34	1	1	6	Communist
35	1	1	5	meeting
43	1	1	4	material
47	1	1	3	cable

As a result of a microscopic study of the depth of typewritten corrections on the Baltimore Documents, I found not 27 but 10 clear instances where the first, incorrect impression was struck with more force than the correcting impression. This same reversal of the normal habit was also found to be present in the known standard, Government Exhibit 39, page 2; the reverse of the normal habit occurs in the word "meetings" where the correcting letter "n" is struck lighter than the original incorrect letter "t". Elizabeth McCarthy's statement that *"no such instance"* occurs in the Hiss Standards is in error. There are listed below three instances where the correcting letter is struck lighter than the original incorrect letter on the Baltimore Documents.

Baltimore Exhibit #	*Page*	*Paragraph*	*Page*	*Word*
12	2	4	7	was
30	2	3	8	which
17	2	2	1	Craigie

(s) Ramos C. Feehan.

(Seal)

EXHIBIT C.

State of Illinois }
County of McHenry } ss.:

Conrad Youngberg, being duly sworn, deposes and says:

1. I have been employed for the past sixteen years by the Electric Auto-Lite Company of Woodstock, Illinois, and am at present in charge of the Engineering Department, Die Cast Division, of that company.

2. I began working for the Woodstock Typewriter Company in approximately 1920. For several years prior to 1930 I was Assistant Superintendent of the Woodstock plant at Woodstock, Illinois, and from the latter part of 1929 until late 1933 I was Superintendent of that plant.

3. In connection with my duties at the Woodstock Typewriter Company, I designed and set into operation the process for soldering type to type-bars, which process was in operation in 1929. The type-bars were first coated with copper, after which they were assembled into the type-bar segment. The type were then soldered on to the bars. The excess solder was ground and filed from the bars and type after which the bars and type were plated by dipping them into a nickel solution. I have examined bars and type produced at the Woodstock plant and have noticed considerable variation in the amount of solder left on the ends of the bars.

4. I have examined photographs M 383, M 384, M 391 and M 392. I do not recall any change in dies for the letter "t" between the time N 228310 and N 233954 were made at the Woodstock plant. As Assistant Superintendent or Superintendent of the plant I would have been advised of any such change. I am of the opinion that we did not make a small letter "t" as shown in M 391 while I worked at the Woodstock plant.

5. I have examined photographs M 383, M 384, M 387 and M 391 in regard to markings on the type. They have the appearance of having struck a paper finger which was bent or broken or having struck the heel of another type in motion. Their appearance does not indicate to me a deliberate alteration to the type.

6. In my opinion, to change the curvature of the small letter "t" on the type face would be extremely difficult without the type face bearing marked evidence of alteration by mechanical means.

7. At Woodstock we made no chemical analysis of the steel used. We kept a stock-pile of type in the Stock Room from which the type were withdrawn to the Soldering Department for assembly on the bar. To the best of my knowledge this reserve supply totalled at least 25,000 pieces of type. Part of these type could have been made from one batch of steel and part from a different batch.

8. From my experience with the Woodstock Company and from my knowledge of the normal practice in typewriter repair work, type and type bars are not re-nickeled after a repair man resolders an old type to a bar or replaces a lost type with a new piece of type.

(s) Conrad Youngberg

(seal)

Sworn to before me this
9th day of May, 1952.

(s) Mercades Bolger
Notary Public

EXHIBIT D.

State of California
County of Los Angeles } ss.:

Otto A. Hokanson, being duly sworn, deposes and says:

1. I reside at 302 Alpine Street, Pasadena, California. In 1909 I entered the employ of the Emerson Typewriter Company, which in about 1911 became the Woodstock Typewriter Company. I continued with this firm in various capacities until 1925, when I was appointed Superintendent of the company's plant at Woodstock, Illinois. I remained in this position until about the middle of 1929.

2. My duties at Woodstock have resulted in my being very familiar with the operations necessary to solder type to type bars and with the general appearance of the finished product of the factory. When type was soldered to a type bar excess solder was removed by either filing or grinding. The completed bar was then given a thin coat of nickel. There was considerable variation in the amount of solder left on the bars.

3. I have examined M 383, M 384, M 391 and M 392. It is my opinion that the Woodstock Company did not make a small "t" such as shown in M 391 while I worked there. I consider it impossible to change the inside curvature of the bottom of the small "t" as shown in M 392 to make it appear as shown in M 384 without the face of the type showing some signs of alteration.

4. I believe that the type faces shown in the photographs marked M 383, M 384, M 391, M 376 and M 387 could reflect mere abnormal use of the typewriter.

5. In 1929 while I was Plant Superintendent, the type on hand in the Type Department would vary from a month's supply for some characters to only a few days supply of the more commonly used type. We did not conduct any chemical analysis of the steel used in making type. When we were making type one batch of the type could have been made from two different batches of steel.

6. From my knowledge and experience in the repair of typewriters, it is not a normal practice to re-nickel a type bar and type after a type has been resoldered to a type bar.

(s) Otto A. Hokanson

Sworn to before me this
13 day of May, 1952.

(seal)

(s) Joanne L. Geiman
Notary Public
in and for the County of Los Angeles
State of California
My Commission Expires May 23, 1955

EXHIBIT E.

State of Illinois }
County of McHenry } ss.:

Joseph Schmitt, being duly sworn, deposes and says:

1. I have been employed in the Woodstock, Illinois, plant of the Woodstock Typewriter Company since 1920. This plant was later sold to the R. C. Allen Business Machines Company and I am now employed by that organization. By virtue of my many years of employment at the Woodstock plant, I am familiar with the typewriters produced by that company in 1929, and with the production procedures followed.

2. At Woodstock the type bars were first coated with copper. The type were then soldered on to the type bars. The excess solder was filed from the bars after which the bars and type were plated by dipping them into a nickel solution.

3. I have examined a set of photographs of type bars from Woodstock N 230,099. The soldering on these type bars is not abnormal and resembles the work produced at the Woodstock factory in 1929.

4. I have examined photographs M 383, M 384, M 391 and M 392. I recall no change in the dies used for the letter "t" in or about the year 1929. I have examined photographs M 383, M 384, M 387 and M 391 in regard to the marking on the keys. They do not indicate a deliberate alteration of the keys in my opinion.

5. At Woodstock we made no chemical analysis of the steel used. We kept a stock-pile of type at the plant and part of such a stock-pile could be from one batch of steel and part from a different batch.

(s) Joseph Schmitt

Sworn to before me this
9 day of May, 1952

Irene E. Gorenflo
Notary Public

(seal)

EXHIBIT F.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA v. ALGER HISS, Defendant.	AFFIDAVIT

STATE OF NEW YORK
COUNTY OF NEW YORK
SOUTHERN DISTRICT OF NEW YORK } ss.:

EARL J. CONNELLEY, being duly sworn, deposes and says:

1. I am an Assistant Director in charge of Field Operations of the Federal Bureau of Investigation, and in such capacity was in charge of the investigation of Alger Hiss which followed his indictment for perjury on December 15, 1948.

2. This affidavit is prepared at the request of the United States Attorney for the Southern District of New York and is in relation to the motion of the said defendant for a new trial on the grounds of newly discovered evidence.

3. The Federal Bureau of Investigation does not have in its possession and never did have in its possession any typewriter known, believed, or considered to be the Woodstock machine owned and possessed by Alger Hiss and/or his wife, Priscilla Hiss, nee Fansler, from approximately 1932-33 until 1938. The Federal Bureau of Investigation has never had any information as to the existence of any other Hiss Woodstock machine other than the trial Exhibit UUU.

4. The Bureau is not now and has at no time sought information as to any other Woodstock typewriter or Woodstock typewriter by a serial number other than serial number 5N230099 after such correct number of the Hiss machine became known to the Bureau May 14, 1949 and which after start of the Hiss trial May 31, 1949 was introduced as Defense exhibit UUU.

(s) EARL J. CONNELLEY

Sworn to before me this
12th day of March, 1952

(seal)

ETHELREDA M. FURLONG
Notary Public for the State of New York
Qualified in Richmond County
No. 43-1350175
Cert. filed with N. Y. Co. Clk's and Reg's Off.
Commission expires March 30, 1952.

EXHIBIT G.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA v. ALGER HISS, Defendant.	AFFIDAVIT C 128-402

STATE OF MARYLAND }
CITY OF BALTIMORE } ss.:

MRS. LOUISE TRACEY FOWLER, being duly sworn, deposes and says:

1. My name is Louise Tracey Fowler and I reside in Riderwood, Baltimore County, Maryland.

2. I am the wife of William Reed Fowler but have been separated from him since March, 1951.

3. In the Fall of 1933 I started to reside with my aunt, Miss Adeline Hasson, at 903 St. Paul Street, Baltimore, Maryland. William Reed Fowler visited me at that address approximately three times each week until our marriage on August 18, 1934.

4. After our marriage we resided at 1306 West Belvedere Avenue, Baltimore, Maryland. From the date of our marriage until approximately eight months later we visited my aunt at 903 St. Paul Street, Baltimore, Maryland, not more often than once every three weeks.

5. I recall that at some time subsequent to the date of my marriage my aunt, Miss Adeline Hasson, stated that a family named Cantwell had resided at 903 St. Paul Street, Baltimore, Maryland.

(s.) LOUISE TRACEY FOWLER

(SEAL)

Sworn to before me this
29th day of February, 1952

(s.) J. C. SPELLERBERG

My Commission Expires May 4, 1953.

EXHIBIT H.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA v. ALGER HISS, Defendant.	AFFIDAVIT C 128-402

STATE OF MARYLAND
CITY OF BALTIMORE } ss.:

CHARLES E. JACKSON, JR., being duy sworn, deposes and says:

1. My father, Charles E. Jackson, Sr., owned the property at 1617 Eutaw Place, Baltimore, Maryland, from before 1930 until after 1940.

2. The various rental records pertaining to the property at 1617 Eutaw Place, Baltimore, Maryland, during the time my father owned the property were made by me in the usual course of business, are in my handwriting and have remained in my custody to the present time.

3. I have examined these records and I have found that they reflect that Lloyd Cantwell rented an apartment at 1617 Eutaw Place, Baltimore, Maryland, and paid rent in the amount of Forty Five Dollars ($45.00) a month, as follows:

October 2, 1935	$10.00
October 17, 1935	$35.00
November 8, 1935	$45.00
December 6, 1935	$45.00
January 8, 1936	$45.00
February 10, 1936	$45.00
March 6, 1936	$45.00
April 4, 1936	$45.00
May 8, 1936	$22.50
May 26, 1936	$22.50
June 13, 1936	$22.50
June 27, 1936	$22.50

(s) CHARLES E. JACKSON, JR.

Sworn to before me
this 15th day of May, 1952

(seal)

(s) WALTER N. WILLUDE
Notary Public.

EXHIBIT I.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA v. ALGER HISS, Defendant.	AFFIDAVIT C 128-402

STATE OF MARYLAND }
CITY OF BALTIMORE } ss.:

PAUL F. HLUBB, being duly sworn, deposes and says:

1. I am an Assistant Manager of the Department of Customers' Accounts, Consolidated Gas Electric Light and Power Company of Baltimore, Lexington and Liberty Streets, Baltimore, Maryland.

2. In my official capacity, I have custody of the various records pertaining to service furnished by the company to its customers. These records are made in the usual course of business.

3. I have examined the company's records regarding service for one Jay Chambers and I have found that these records reflect the following information:

a. Jay Chambers was furnished gas and electric service at 3310 Auchentoroly Terrace, Baltimore, Maryland, from March 26, 1937 to on or about October 25, 1937. This order for service was given in person and signed by Jay Chambers on March 26, 1937.

b. Jay Chambers was furnished gas and electric service at 2124 Mount Royal Terrace, Baltimore, Maryland from October 25, 1937 to on or about April 9, 1938. This order for service was given telephonically on October 21, 1937 by someone who represented herself to be Mrs. Chambers, who advised at this time that she would be responsible for the payment for this service effective October 25, 1937.

c. Jay Chambers was furnished electric service at West Side of Old Court Road, three buildings south of Green Lane, Woodlawn, Randallstown, Maryland from April 1, 1938 to on or about June 30, 1938. This order for service was given telephonically on April 12, 1938 by someone who represented herself to be Mrs. Chambers, who advised at this time that she would be responsible for the payment for this service effective April 1, 1938. This record further reflects that service for the previous occupant at this address was discontinued on or about April 4, 1938.

d. Jay Chambers was furnished gas and electric service at 2610 St. Paul Street, Baltimore, Maryland from June 30, 1938 to on or about June 15, 1939. This order for service was given telephonically

on June 30, 1938 by someone who represented herself to be Mrs. Chambers.

e. The exact termination dates for the services mentioned at the addresses listed above are no longer available in the company's records.

4. These records further reflect that all services rendered to Jay Chambers at the above addresses were paid for, and there are no outstanding bills for these services.

(s) Paul F. Hlubb

Sworn to before me this
29th day of February, 1952

(seal)

(s) Ferdinand Harthausen
Notary Public.

Exhibit I.

EXHIBIT J.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA v. ALGER HISS, Defendant.	AFFIDAVIT C 128-402

STATE OF MARYLAND }
CITY OF BALTIMORE } ss.:

ANDREW J. LUDWIG, being duly sworn, deposes and says:

1. I am a licensed real estate broker with offices at 433 Title Building, Baltimore, Maryland.

2. From approximately 1919 until December 5, 1944 I was the agent for the premises located at 2124 Mount Royal Terrace, Baltimore, Maryland.

3. I have examined a rent receipt dated March 14, 1938, acknowledging the receipt by me of the sum of seventy (70) dollars from Mrs. Esther Chambers, as rent for 2124 Mount Royal Terrace for the period from March 25, 1938, to April 30, 1938.

4. I have compared this receipt with my original ledger for this period, which is intact, and I have found that the receipt conforms with the entries in that ledger.

5. I further have examined the handwriting on the receipt and state that it was written by me.

(s) ANDREW J. LUDWIG

(seal)

Sworn to before me this
29th day of February, 1952.

(s) ANNETTE BAKER

EXHIBIT K.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA v. ALGER HISS, Defendant.	AFFIDAVIT C 128-402

STATE OF MARYLAND }
CITY OF BALTIMORE } ss.:

D. LLOYD STOKER, of Schmidt Motor Company, Inc. being duly sworn, deposes and says:

1. I am the Vice-President of the firm of Schmidt Motor Company, Inc., Randallstown, Maryland.

2. In April of 1938 I was the shop foreman for this same company. Included in my duties at that time was the preparation of repair charts and orders for customers.

3. I have examined a repair order of the Schmidt Motor Company, Inc., dated April 1, 1938, which bears No. 3977, calling for work for Mrs. Esther Chambers, 2124 Mount Royal Avenue, in respect to a 1937 Ford or car bearing licence #63-341. The repairs are as follows:

Fill and adjust shocks	$1,25
General tightening up	2.50
Lubricate front wheels	1.25
Tighten & adjust brakes	.75
Alemite chasis—check	.75
Stop lite stays on	No chge
Take out dents Rt fenders	.50
Put on Running Bd Strip Rt Side	.30
Tighten w/s wiper	No chge
Put on License tags	No chge
Total Labor	7:30
Total Parts	.18
Total Amount	7.48

4. I have examined the repair order. I state that it is in my handwriting and bears my initials and that, according to the uniform practice of myself and of the Schmidt Motor Company, Inc., it was written on the date indicated on the order, to wit, April 1, 1938.

/s/ D. LLOYD STOKER

Sworn to before me this
29th day of February, 1952.

/s/ HOWARD A. PETZ
Notary Public

(seal).....

EXHIBIT L.

April 2, 1938

2124 Mt. Royal Terrace

Baltimore, Md.

Dr. Hans Froelicher
Park School
Baltimore, Maryland

Dear Dr. Froelicher

We have been so very pleased with the way in which the school has helped develop to Ellen and to solve our more immediate problems, that we wish to express deepest gratitude and appreciation for your help in making her attendance possible and to tell you briefly how it is we believe she has benefited.

One of our major crisis came with the intrusion of brother Patrick into Ellen's world some eighteen months ago. Like most only children, Ellen's domain had been undisputed. Her parents had given her undivided attention and affection. With the arrival of Patrick, things changed. Despite every effort to prevent it, the situation became not a little difficult. We turned to the school for help. It did, with most gratifying success.

Brother is now one of the accepted home pattern and is often the object of great display of fondness altho not yet an adequate playfellow.

It might be argued that same results could have been obtained by a busy life with neighborhood playmates. These it happens, were not available, as we had only recently arrived from another city. Besides regular attendance at school made it possible to give the necessary attention to the younger child with arousing the susceptibilities of the older one. Also, it furnished the stimulating and diverting change necessary to help bridge the difficulty.

There are a good many other ways in which the kindergarten has decidedly helped develop the child.

Ellen has been adept in the use of her hands ever since she was little more than an infant. She is however, a gentle child who has never found it necessary to assert herself physically or otherwise. Surrounded by other children of her own age, some stronger than she, she has learned to protect herself and gained a confidence in her special abilities. She is proud of the approval, when it is given, of her group.

She now displays greater imaginativeness and is bolder in attempting new things. Out driving the other day we came on a field of winter wheat bristling greenly in neat rows. She commented, "That's like my potato when I mash it with my fork." And today about a fat chow, "He looks like a thumb."

Her horizon has broadened and her life is peopled with definite personalities, her schoolmates, her teachers, and all the things she hears in school. We are grateful to you and Miss Coe, Miss Sipple and Miss Kemper for helping her make such genuine progress.

We are grieved at having to cut short her attendance this year, but with the arrangement you spoke of in mind, for next fall, we look forward to a happy renewal.

Very sincerely,

Jay and Esther Chambers

EXHIBIT M.

April 9, 1938

228 Earle Avenue,

Lynbrook, Long Island.

Dr. Hans Froelicher
Park School
Liberty Hghts Ave.
Baltimore, Md.

Dear Dr. Froelicher

I wonder if you can see me for a little while on Monday about 10:30, to talk over some of the details of classes for next year. I was sorry to have to leave before getting to see you about this.

As you know, we have had to leave Baltimore temporarily but expect to return in the Fall. I am eager to know what your plans are and to talk over some ideas of mine. The enclosed letter is genuine but also an attempt to help out on the parents angle for the new catalog. If too lame, will change.

Will drive in Sunday night or Monday morning at any rate I hope you can see me then.

Very truly,

Esther Chambers.

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